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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/665,635	09/17/2003	Douglas W. Harrison	MP-2-2003	6119

7590 09/06/2005

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EXAMINER

WILSON, LEE D

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 09/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

SP

Office Action Summary	Application No. 10/665,635	Applicant(s) HARRISON, DOUGLAS W.	
	Examiner LEE D. WILSON	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/17/03</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 1-20 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

a. The invention is being recited without a spacer in between two frameworks which spaces apart and connects the frameworks; however, it is not disclosed as being able to operate without this element in the inventions most basic format. Claim 1 and 11 must mention this element.

b. Claim 16 states that the frameworks spaced apart but it does not mention that they are connected which they have to be to work as disclosed.

2. Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

c. **The following claims lack proper antecedent basis:**

i. "each flat face member" in claim 1, line 13. This has already been mentioned.

d. **The following claims are vague, indefinite, awkwardly, and confusingly worded:**

ii. Claim recites "devise" which should be - - device- - .

- iii. The claim 1 is indefinite because it has not end due the fact that there is no period at the end of claim 1.
- iv. Lumber is not part of the invention therefore claim 2 does not further limit the actual device.
- v. Filler blocks is not part of the invention therefore claim 3 does not further limit the actual device.
- vi. Lumber is not part of the inventive method therefore claim 20 does not further limit the actual device.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-3 and 6-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Shelton (5505425).

Shelton disclose a device having at least two frame works (10&11) with an aperture in a top (area surrounding 38), sides (31&28), a bottom (12), a spacer (46&49), a force actuator (35 which is gravity force or some weight apply on top), a flat face member (bottom of 38) and rollers (15).

It is noted that rectangular and square are equivalents.

Allowable Subject Matter

5. Claims 4-5 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 1st first and 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

6. Claims 11 and 16 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 1st first and 2nd paragraph, set forth in this Office action.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Maser et al and Clouser disclose a device.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to LEE D. WILSON whose telephone number is 571-272-4499. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, JOSEPH HAIL can be reached on 571-272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Ldw

August 10, 2005

A handwritten signature in black ink, appearing to read 'Lee D. Wilson', written in a cursive style.

LEE D. WILSON
PRIMARY EXAMINER